

U. S. Department of Housing and Urban Development
Office of Insured Health Care Facilities
Federal Housing Commissioner
COMMITMENT TO INSURE UPON COMPLETION
(Section 232 pursuant to Section 223f)

**Commitment to Insure
Upon Completion**
Section 232 Pursuant to
Section 223(f)

FHA Project No.: U.S.
Department of Housing and
Urban Development
Office of Healthcare Programs

OMB Approval No. 9999-
9999
(exp. mm/dd/yyyy)

Formatted Table

Project Name: _____
Project _____
Address: _____

Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. No confidentiality is assured.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Privacy Act Notice: The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in the form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

FHA Project No.: XXX-XXXXX
Project Name: Project Name
Project Address: Project Street Address
Project City, State, Zip

Lender Name

(Mortgagee)

Mortgagor Name

(Name of Mortgagor)

Lender Street Address

(Address)

Mortgagor Street Address

(Address)

Lender City, State, Zip

(City, State, & Zip Code)

Mortgagor City, State, Zip

(City, State, & Zip Code)

We understand that you, as Mortgagee, have agreed to make a loan to Mortgagor Name, Mortgagor Name, (hereafter called the "Mortgagor"), in an amount not exceeding the sum of (Mortgage Amount Written Out) Dollars (\$) to be secured by a credit instrument and security instrument (hereafter jointly called the "Mortgage") covering real property with existing building(s) thereon identified above

(hereinafter called the "Project"), as shown on the legal description of the property attached hereto and marked **Exhibit A**.

It is your intention to present the said Mortgage to the Federal Housing Commissioner acting herein on behalf of the Secretary of Housing and Urban Development (the "Secretary") for mortgage insurance under the provisions of Section 232, pursuant to Section 223(f) of the National Housing Act (the "NHA"), and the Regulations thereunder now in effect (the "Regulations").

The Secretary hereby agrees to insure said Mortgage under the provisions of the NHA and the Regulations upon the following conditions:

1. The Mortgage shall bear interest at the rate of [REDACTED] percent per annum payable on the first day of each month on the outstanding balance of principal. The first payment to principal (commencement of amortization) shall be due not later than the first day of the second month following the date of endorsement of the Mortgage for insurance ("Endorsement"). The Mortgage shall be payable on a level annuity basis by [REDACTED] monthly payments of principal and interest in the amount of \$[REDACTED]. The maturity and final payment date shall be [REDACTED] years and [REDACTED] months following the due date of the first payment to principal. Note: Any change in the interest rate may require reprocessing of the mortgage insurance application.
2. The credit instrument and the security instrument to be insured shall be in the form prescribed by the Secretary for use in connection with loans insured under Section 232, pursuant to Section 223(f) of the NHA in the locality in which the property is situated. In addition, the Mortgagor (and, if applicable, the lessee/operator of the Project) shall provide a security agreement, UCC financing statements, and deposit account control agreement(s) granting a first lien security interest in such tangible and intangible personal property related to the Project as may be required by the Secretary (subject only to liens for taxes and assessments which are not delinquent and such other liens, such as with an accounts receivable financing transaction, as may be approved by the Secretary).
3. Prior to Endorsement, the Mortgagor shall present to the Secretary a title policy in conformity with the Regulations which shall show that title to the property (or, if approved by the Secretary, a leasehold estate therein) on the date of Endorsement is vested in the Mortgagor free of all exceptions to title (either junior or prior to said Mortgage) except said Mortgage and such other exceptions to title as are specifically determined to be acceptable by the Secretary. Said title policy shall (a) by its terms inure to the benefit of the Mortgagee and/or the Secretary of Housing and Urban Development, as their interests may appear and (b) unless otherwise approved by the Secretary, be on the ALTA Loan Policy 2006 Form and include ALTA Form 8.1-06, 9-06, (or 9.3-06), ALTA 17-06 and ALTA 22-06 endorsements and an endorsement deleting the arbitration clause. The Mortgagor shall also furnish satisfactory proof that there exist no unpaid obligations contracted in connection with the Mortgage transaction, the purchase of the Project or refinancing of existing indebtedness, or the completion of any repairs, except such obligations as may be approved by the Secretary. Unless waived by the Secretary, prior to Endorsement, the Mortgagor shall present to the Secretary a survey of the Project in form and substance satisfactory to the Secretary.
4. The Mortgagor must possess the powers necessary for operating the Project and meeting all the requirements of the Secretary for insurance of the Mortgage. Prior to Endorsement, there shall be delivered to the Secretary and the Mortgagee (a) copies of ownership entity documentation that complies with applicable requirements of the Secretary, including a copy of the instrument under which the Mortgagor entity is created (unless the Mortgagor is an individual) together with copies of all instruments or agreements necessary under the laws of the applicable jurisdiction to authorize

execution of the Mortgage and the other closing documents, and (b) a Regulatory Agreement in the form prescribed by the Secretary for use in connection with loans insured under Section 232, pursuant to Section 223(f), of the NHA (the "Regulatory Agreement"). Such Regulatory Agreement shall provide, among other things, for the establishment of a Reserve Fund for Replacements (the "Reserve for Replacements") by payment of \$ [REDACTED] per annum to be accumulated monthly at the rate of, \$ [REDACTED] per month (rounded to the nearest dollar), under the control of the Mortgagee, commencing on the date of the first payment to principal as established in the Mortgage unless a later date is agreed to by the Secretary. In addition to the per annum amount required to be accumulated monthly under control of the Mortgagee for the Reserve Fund for Replacements, there shall be an initial deposit in the amount of \$ [REDACTED] made to the Reserve Fund for Replacements by the Mortgagor at the time of Endorsement. Attached hereto as **Exhibit B** is the Reserve for Replacement Funding Schedule which supports the per annum and initial deposits to the Reserve for Replacements.

The amount of the annual deposits to the Reserve Fund for Replacements shall be subject to change in accordance with the requirements of the Secretary. In connection therewith, the Mortgagee shall obtain a new Project Capital Needs Assessment ("PCNA") for the Secretary to evaluate every ten years. The cost of each such PCNA report may be paid from the Reserve Fund for Replacements. The Request for Endorsement of Credit Instrument to be delivered prior to Endorsement shall include a statement confirming the requirement for such new PCNA reports.

5. The provisions of this Paragraph 5 shall apply to any critical repairs required by this Commitment to be completed and inspected prior to Endorsement and to any non-critical or owner-elective repairs required by this Commitment to be completed after Endorsement. All repairs shall be completed in accordance with the Work Write-up attached hereto as **Exhibit C** ("**CRITICAL, NON-CRITICAL & OWNER-ELECTIVE REPAIRS LIST**", as applicable") and must meet the specific requirements contained in Chapters 5 and 6 of HUD's Minimum Property Standards. The Secretary estimates that these critical repairs will cost \$ [REDACTED]. Non-critical repairs and owner-elective repairs, if any, must begin promptly following Endorsement and must be completed within 12 months of Endorsement. The Secretary estimates that these repairs will cost \$ [REDACTED]. An escrow of ~~420%~~120% of this amount must be established prior to Endorsement. It is understood that 100% of the estimated cost of any non-critical and owner-elective repairs come from loan proceeds and an additional cash amount (or letter of credit) of not less than ~~20%~~20% of the repair cost estimate will also be placed in escrow. To cover latent defects, the Mortgagor shall furnish satisfactory evidence that the non-critical and owner-elective repairs will be covered by an escrow in cash, or letter of credit, or a surety bond acceptable to the Secretary (which escrow may be funded upon completion of the repairs from the repair escrow established at the time of Endorsement.) The Secretary encourages mortgagors to utilize energy saving devices and methods when making repairs.

During the course of such repairs, if any, the Secretary and his representatives shall at all times have access to the Project and the right to inspect the progress of the repairs. In addition, if required by the Secretary, the Mortgagor will furnish at the Project site all necessary facilities for the use of the Secretary's inspector. The inspection of the repairs by a representative or representatives of the Secretary shall be for the benefit and protection of the Secretary. The Secretary shall have no obligation to endorse the Mortgage for insurance unless and until all critical repairs have been completed to the satisfaction of the Secretary.

6. If any repairs are to be made which require additional sewer, water, gas or electrical facilities, evidence satisfactory to the Secretary shall be submitted prior to Endorsement showing that adequate sewer, water, gas and electrical facilities (as applicable) have been or will timely be fully

installed. All off-site facilities or utilities required in connection with the repairs shall be included in such evidence.

7. Upon Endorsement, the Mortgage must be current with respect to all payments required to be made by its terms, including all deposits required to be made with the Mortgagee for mortgage insurance premiums, fire, and other property insurance premiums, ground rents, water rates, taxes and other assessments; and there shall be in full force and effect fire and other property insurance as required by the Mortgage.
8. Upon Endorsement, the Mortgagee shall pay to the Secretary in advance, a mortgage insurance premium equal to one percentum of the principal amount of the Mortgage to cover the first mortgage insurance premium and shall continue to make payments thereafter as required by the aforesaid Regulations.
9. *(This condition only applies to projects where there is a required Initial Operating Deficit Escrow.)*
Upon Endorsement, the Mortgagor shall execute form HUD 92476-A "Escrow Agreement Additional Contribution by Sponsors" showing the deposit of \$ [REDACTED] in the form of cash, an unconditional irrevocable letter of credit issued to the depository by a banking institution, or United States bearer bonds. In the event a demand under the letter of credit is not promptly met, the Mortgagee shall immediately provide the cash equivalent in the undrawn balance thereunder.
10. Prior to Endorsement, the Mortgagee must submit at loan closing statement signed by the Mortgagee and the Mortgagor detailing the amount of any promissory notes, cash contributions, amounts to be paid to satisfy Mortgagor's obligations for existing or other indebtedness, acquisition, repairs, discounts, financing fees, legal expenses, organizational expenses, title and recording costs, and any Mortgagee-required escrows.
11. Prior to Endorsement, the Mortgagor must certify to the actual cost of this Mortgage using form HUD-2205-A, Mortgagor's Certificate of Actual Costs. A draft form HUD-2205-A with supporting documentation is required at least 10 days prior to Endorsement. Supporting documentation must include a current pay off statement for any existing indebtedness and evidence of prepaid third party costs.
12. The Mortgagor shall not be required to pay to the Mortgagee an initial service charge in excess of two percent (2%) of the original amount of the Mortgage.
13. This Commitment shall expire 60 days from the date hereof, unless extended by the Secretary. Upon such expiration, all rights and obligations of the respective parties shall cease. Prior to any extension of this Commitment, the Secretary may, at his option, reexamine this Commitment to determine whether it shall be extended, shall be extended in the same amount, or shall be amended to include a lesser amount.
14. A request for reopening received within ninety (90) days of expiration of this Commitment must be accompanied by a reopening fee of \$.50 per \$1,000.00 of the amount of the expired commitment.
15. It is a condition of this Commitment that any change in ownership upon which this Commitment was predicated must be indicated in writing by the Mortgagor and such request must be approved in writing by the Secretary. Any principals of the Mortgagor or lessee/operator which are added prior to Endorsement and which were not disclosed in the mortgage insurance application shall be subject to the Secretary's credit review and previous participation clearance before Endorsement.
16. If the mortgaged property is leased, the Lessee/Operator lease must comply with the Lessee Regulatory Agreement (Form HUD-92466-NHL) and incorporate subordination language approved

by HUD. The security agreement between the Lessee/Operator and the Mortgagee must also be approved by HUD. Lease payments must cover the costs of the mortgage, i.e., Mortgage Insurance Premiums (MIP), taxes, mortgage payments, and any other costs that might be required by HUD. If the mortgaged property is operated by a Management Agent, the Management Agreement must comply with the Regulatory Agreement (Form HUD-92466-NHL) and incorporate subordination language approved by HUD. The Management Agent will be required to sign the Regulatory Agreement (Form HUD-92466-NHL). The management agreement must address costs of the mortgage. If the Management Agent is not the licensee, and does not operate the facility, the Management Agent shall sign the Management Certification, HUD-~~9839A, B, or C~~ as applicable⁹⁸³⁹.

17. Any accounts receivable financing obtained by the Mortgagor, lessee/operator, or Management Agent, as applicable, will be subject to approval by the Secretary and the Mortgagee.
18. In the event that additional code requirements are imposed by any state or local authority, after the issuance of this Commitment, that would cause the total cost of all required repairs to exceed fifteen percent (15%) of the Secretary's total estimate of value after repairs, this Commitment shall be null and void.
19. The Secretary reserves the right to examine the Mortgagee's file materials related to the underwriting of the Mortgage at any time during the ten-year period following Endorsement. If there is evidence of fraud or misrepresentation by the Mortgagee, the Secretary reserves his legal rights under the contract of mortgage insurance and Mortgagee Review Board requirements. The Mortgagee agrees to retain, in accessible files, all materials related to the underwriting of the Mortgage for a period of ten years, even though the Mortgage itself may be sold to another entity.
20. All financing arrangements (other than the Mortgage and any other mortgage insured by the Secretary), including repayment obligations and other secondary financing, and occupancy restrictions must be fully disclosed to, and approved by, the Secretary and must comply with the Secretary's requirements applicable to loans insured under the Section of the NHA applicable to the Mortgage.
21. This Commitment is conditioned upon and shall not be enforceable against the Secretary until and unless all conditions to Endorsement stated herein have been satisfied or waived by the Secretary.
22. This Commitment is subject to the conclusions stated on the ~~attached forms: HUD-92264-HCF, Health Care Facility Summary Appraisal Report; HUD-92264A, Supplemental Attachments to Project Analysis; HUD-92447, Property Insurance Requirements; and, HUD-92329, Property Insurance Schedule~~ this Firm Commitment.

This commitment is

☒ ~~subject~~ Subject to Special Conditions numbered 1 through , which are attached hereto and are made a part hereof.

☐ ~~not~~ Not subject to any Special Conditions.

23. Prior to Endorsement the Mortgagor must provide evidence that a management conference has been scheduled with the HUD Account Executive assigned to the project. The contact information for the Account Executive assigned to this project is below.

Name: The ~~OHP~~ OHCF Underwriter will complete this

Telephone: The QIHCFOHP Underwriter will complete this

Email: The QIHCFOHP Underwriter will complete this

Attached to this Commitment as **Exhibit D** is a form closing checklist identifying documents required for loans insured under Section 232, pursuant to Section 223(f), of the NHA. If there are any inconsistencies between the attached closing checklist and this Commitment, this Commitment controls. Draft closing documents, conforming to the terms of this Commitment must be submitted not less than 10 business days prior to Endorsement. This Commitment and exhibits referred to herein together with the applicable Regulations constitute the entire agreement among the parties, and acceptance of the terms hereof is evidenced by the signature of the Mortgagor and Mortgagee upon the lines provided below. Please return one original of this Commitment, signed by the Mortgagee and the Mortgagor, to the QIHCFOHP Underwriter within 10 business days of the date of the Secretary's execution of this Commitment.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT
BY: FEDERAL HOUSING COMMISSIONER

By: _____ Date: _____
Authorized Agent

Attachments:

- ~~Exhibit A Legal Description~~
- ~~Exhibit B Reserve for Replacement Funding Schedule~~
- ~~Exhibit C Critical, Non-Critical & Owner Elective Repairs List, as applicable~~
- ~~Exhibit D Closing Checklist~~
- ~~Special Conditions, if applicable~~
- ~~Form HUD-92264-HCF and Form HUD-92264-A~~
- ~~Form HUD-92329~~
- ~~Form HUD-92447~~

The above Commitment to Insure Upon Completion, including Special Conditions (if applicable), is hereby accepted by the undersigned, and we hereby agree to be bound by the terms hereof.

MORTGAGOR: Mortgagor Name Enter Mortgagor Name

Date: _____ By: _____
Name: _____
Title: _____

| MORTGAGEE:

Lender Name Enter Lender Name

Date: _____

By: _____

Name: _____

Title: _____

Attachments:

- Exhibit A Legal Description
- Exhibit B Reserve for Replacement Funding Schedule
- Exhibit C Critical, Non-Critical & Owner-Elective Repairs List, as applicable
- Exhibit D Closing Checklist
- Special Conditions, if applicable
- Form HUD-92264-A
- Property Insurance Requirements Form

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